

Legal assistance; posting bail bond. An organization that, as part of its integrated program of providing legal, rehabilitative, employment, and other services to persons accused of crimes, posts its own money or property with the court as total or partial bail for indigent defendants unable to provide funds with which to post bail may qualify for exemption under section 501(c)(3) of the Code.

Advice has been requested whether an organization which otherwise qualifies for exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1954 is operated exclusively for charitable purposes if it engages in the activities described below.

The organization has a broad rehabilitative and counseling program to assist persons arrested and held in custody in securing adequate legal counsel, finding employment, and being placed in job training, drug, or alcoholism programs. As an integral part and in furtherance of its rehabilitative program, the organization acts as surety for indigent defendants awaiting trial who are unable to provide funds with which to post bail. The organization employs a 'bail coordinator' to screen persons in custody to assure that they will appear in court, if released, and to provide assistance and supervision to them once they have been released on bail.

The organization posts bail directly with the court, either in full amount of the bail or that portion which the accused or his family is unable to provide. After disposition of the defendant's case, the bail is returned to the organization. All persons who are unable to meet the full amount of their bail through their own resources or through those of family or friends are eligible for assistance by the organization.

The organization also provides bail in some cases by posting real property with the court as security for the bail bonds. The organization has obtained from a number of donors the right to use the donor's property for bail. These donors have executed powers of attorney and affidavits authorizing the organization to use their real estate as collateral for bail up to certain amounts, and the bail bond is then made in the name of the donor.

The organization is supported by contributions from the general public.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(d)(2) of the Income Tax Regulations defines 'charitable' as including relief of the poor and distressed or of the underprivileged.

Rev. Rul. 69-161, 1969-1 C.B. 149, holds that a legal aid society providing free legal services to indigent persons, otherwise financially incapable of obtaining such services, qualifies for exemption under section 501(c)(3) of the Code.

A program of posting bail for persons who are in custody and who are otherwise incapable of paying for such bail, carried out as part of an integrated program for their release and rehabilitation, constitutes a form of relief of the poor and distressed. Such activities, including the rehabilitation program, qualify, therefore, as charitable within the meaning of section 501(c)(3) of the Code. Accordingly, the organization is operated exclusively for charitable purposes and is exempt from Federal income tax.

Compare Rev. Rul. 76-22, this page, which holds that a legal aid society which provides free legal services and funds to pay fees of commercial bondsmen for indigent persons who are otherwise financially unable to obtain such services qualifies under section 501(c)(3) of the Code.

Even though an organization considers itself within the scope of this Revenue Ruling, it must file an application on Form 1023, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See sections 1.501(a)-1 and 1.508-1(a) of the regulations.